

## REMARKS

The Office Action mailed February 6, 2008 has been received and carefully noted. Claims 1-64 are currently pending in the subject application and claims 1-27 are presently under consideration.

Claims 1, 7, 10, 13, and 15-26 have been amended herein without adding new matter. A listing of claims can be found on pages 3-13 of this Reply.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and the following comments.

### **I. Restriction Requirement**

Claims 1-64 are subject to a restriction requirement. Specifically, the claims are restricted to the following inventions:

- I. Claims 1-27 drawn to image storage or retrieval, classified in class 382, subclass 305.
- II. Claims 28-64 drawn to template matching (determining both similarities and differences), classified in class 382, subclass 219.

The Examiner correctly notes that Michael J. Mallie made a provisional election in a telephone conversation with the Examiner on January 30, 2008 to elect Group I. The Applicants affirm this election without traverse.

### **II. Objection to the Drawings**

FIG. 8 was objected to for its lack of reference numbers. A properly labeled FIG. 8 is submitted herewith. The Applicants respectfully request that this objection be withdrawn.

### **III. Rejection of Claims 15-26 and 39-49 Under 35 U.S.C. § 101**

Claims 15-26 and 39-49 stand rejected under 35 U.S.C. § 101. Note that claims 39-49 are withdrawn and therefore not presently under consideration. Claims 15-26 have been amended to recite a “computer readable media” rather than an “article of manufacture,” as suggested by the Examiner (See Office Action mailed February 6, 2008, pgs. 4 and 5). Accordingly, reconsideration and withdrawal of these rejections are respectfully requested.

### **IV. Rejection of Claims 1-27 Under 35 U.S.C. § 102(b)**

Claims 1-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sekiguchi *et al.* (U.S. Patent Publication No. 2001/0004739). It is respectfully requested that these rejections be withdrawn for at least the following reason. Sekiguchi *et al.* does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that “*each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

*In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, independent claims 1, 15, and 27 recite: “performing image analysis between the first image and a second image based on the one or more retrieval attributes.” Sekiguchi *et al.* fails to describe this aspect.

The Examiner contends that Sekiguchi *et al.* discloses this aspect at FIG. 2, elements 9 and 10 (and corresponding paragraph 0079), noting the “user interface unit for selecting an image which is desired to be retrieved” (See Office Action mailed February 6, 2008, pgs. 6 and 8). The Applicants respectfully disagree.

FIG. 2, elements 9 and 10 of Sekiguchi *et al.* represent a user interface unit for selecting an image and a retrieval processing unit for performing retrieval (*i.e.*, extracting the characteristics from the image), respectively (*See* Sekiguchi *et al.*, paragraph 0079).

First, FIG. 2 does not involve two images, but involves only a single image (the image selected using the user interface unit) and therefore does not disclose “performing image analysis *between the first image and a second image*” (emphasis added) as recited in the claim.

Second, the Examiner additionally cites FIG. 6 and corresponding paragraphs 0100 and 0101 of Sekiguchi *et al.* for “deriving one or more retrieval attributes from the header information.” FIG. 6 and corresponding paragraphs 0100 and 0101 of Sekiguchi *et al.* describe the headers of the frames as including labels that set forth whether a frame is of an inter-frame type or an intra-frame type. The Applicants assume that the Examiner is referencing the inter-frame and intra-frame labels found in the header of Sekiguchi *et al.* as disclosing the “one or more retrieval attributes” of independent claim 1. However, there is no stated relationship in the cited reference between the inter-frame/intra-frame labels and any form of “retrieval attributes.” Further, there is no stated relationship in the cited reference of how image analysis between two images would be performed “based on the one or more retrieval attributes.” Instead, the inter-frame/intra-frame label of a frame identifies the type of data in the frame.

If the Examiner maintains these rejections, the Applicants respectfully request that the Examiner clarify how inter-frame/intra-frame labels relate to “retrieval attributes.” The Applicants also request that the Examiner clarify how inter-frame/intra-frame labels are the basis for image analysis between two images. Finally, the Applicants respectfully request that the Examiner specifically identify which elements of Sekiguchi *et al.* teach the one or more retrieval attributes, the first image, the second image, and the image analysis between the first and second image that is based on the one or more retrieval attributes.

Accordingly, the Examiner has not shown that Sekiguchi *et al.* describes each and every element of independent claims 1, 15, and 27. Each of the dependent claims depend from one of independent claims 1 and 15, thus incorporating the respective limitations thereof. For at least the aforementioned reasons regarding the independent claims, Sekiguchi *et al.* does not describe each and every element of the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (408) 720-8300.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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